

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

United States Fidelity and
Guaranty Company

Plaintiff,

vs.

Hon. Paul D. Borman
Case No. 07-CV-12665

National Union Fire Insurance Company of
Pittsburgh, Pennsylvania;
American International Group, Inc.;
and AIG Technical Services, Inc.

Defendants.

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**PLAINTIFF'S MOTION TO COMPEL DEPOSITIONS
REGARDING THE PARENT-SUBSIDIARY LIABILITY ISSUE**

Plaintiff, United States Fidelity and Guaranty Company, by its attorneys,
O'Connor, DeGrazia, Tamm & O'Connor, P.C., for its Motion to Compel Depositions
Regarding the Parent-Subsidiary Liability Issue, brought pursuant to Fed. R. Civ. P. 30

and Fed. R. Civ. P. 37, states as follows:

1. That in this action in which Plaintiff, United States Fidelity & Guaranty Company (USF & G) alleges that Defendants, National Union Fire Insurance Company of Pittsburgh, Pennsylvania (NUFIC), American International Group, Inc. (AIG) and AIG Technical Services Inc. (AIGTS) acted in bad faith in failing to settle the underlying lawsuit.

2. That Defendants, AIG and AIGTS brought a Motion to Dismiss on 7/27/07.

3. That the Hon. Paul D. Borman entered an Opinion and Order Denying Defendants' Motion to Dismiss on 10/10/07.

4. That in the Opinion and Order, Judge Borman ordered that "Plaintiff has 60 days in which to complete limited discovery pertaining to the parent-subsidary liability issue."

5. That Plaintiff has sought discovery as to the parent-subsidary liability issue since Judge Borman entered his Opinion and Order on 10/10/07. However, no such discovery has been provided by Defendants to date.

6. That on 10/16/07, Plaintiff noticed the deposition of Defendants' employee and/or agent, Shannon Ali (Exhibit A - Correspondence from Plaintiff's Counsel to Defense Counsel dated 10/16/07; Exhibit B - Notice of Taking Deposition Duces Tecum of Shannon Ali).

7. That on 10/17/07, Plaintiff noticed the deposition of Defendants' employee

and/or agent, Susan L. Shaffer (Exhibit C - Correspondence from Plaintiff's Counsel to Defense Counsel dated 10/17/07; Exhibit D - Notice of Taking Deposition Duces Tecum of Susan L. Shaffer).

8. That in correspondence dated 10/23/07, Defense counsel forwarded correspondence to Plaintiff's counsel stating that "...neither Mr. Ali nor Ms. Shaffer have significant knowledge about the parent-subsidary relationship between National Union Fire Insurance Company of Pittsburgh, PA, American International Group, Inc., and AIG Domestic Claims, Inc., I anticipate that you will gain little relevant information on the 'parent-subsidary liability issue' by deposing either of them" (Exhibit E - Correspondence from Defense Counsel to Plaintiff's Counsel dated 10/23/07).

9. That since it appeared that the deposition testimony of Mr. Ali and Ms. Shaffer would be reasonably calculated to lead to the discovery of admissible evidence, per Fed. R. Civ. P. 26(b)(1), Plaintiff's counsel continued to express a desire to Defense counsel to proceed with the depositions of Mr. Ali and Ms. Shaffer.

10. That in correspondence dated 11/6/07, Defense counsel forwarded correspondence to Plaintiff's counsel indicating that "Given the Court's Order, which now limits discovery to the 'parent-subsidary liability issue' neither Mr. Ali nor Ms. Shaffer will be produced for a deposition at this time" (Exhibit F - Correspondence from Defense Counsel to Plaintiff's Counsel dated 11/6/07).

11. That on 11/8/07, Plaintiff's counsel noticed the depositions of "any and all

officers, directors, managing agents and/or other employees and/or agents of Defendants, National Union Fire Insurance Company of Pittsburgh, PA, American International Group, Inc. and AIG Technical Services, Inc. with knowledge, information and/or documentation concerning the parent-subsiary liability issue, as referenced in the Hon. Paul D. Borman's Opinion and Order Denying Defendants' Motion to Dismiss dated 10/10/07" (Exhibit G - Correspondence from Plaintiff's Counsel to Defense Counsel dated 11/8/07; Exhibit H - Notice of Taking Depositions Duces Tecum).

12. That, to date, Defendants have failed to make Mr. Ali, Ms. Shaffer and the other employees and/or agents of Defendants available for deposition, with regard to the parent-subsiary liability issue.

13. That, by stipulation of the parties, the present deadline for Plaintiff to complete discovery as to the parent-subsiary liability issue is 1/31/08.

14. That there is no good faith reason for Defendants to continue to fail to make Mr. Ali and Ms. Shaffer available for deposition, as to the parent-subsiary liability issue.

15. That there is no good faith reason for Defendants to continue to fail to identify and make the other employees and/or agents of Defendants available for deposition as to the parent-subsiary liability issue.

16. That Fed. R. Civ. P. 37(d) provides that a party may move for an order to compel the deposition of a party.

For the above reasons, Plaintiff, United States Fidelity & Guaranty Company requests the Court to compel Defendants to immediately produce Shannon Ali and Susan L. Shaffer for deposition as to the parent-subsidary liability issue. Plaintiff further requests the Court to compel Defendants to immediately identify and produce the relevant officers, directors, managing agents and/or other employees and/or agents for deposition as to the parent-subsidary liability issue.

Respectfully submitted,

O'CONNOR, DeGRAZIA, TAMM & O'CONNOR, P.C.

/S/ James E. Tamm P38154

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Dated: January 10, 2008

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**BRIEF IN SUPPORT OF PLAINTIFF'S MOTION TO COMPEL
DEPOSITIONS REGARDING THE PARENT-SUBSIDIARY LIABILITY ISSUE**

Plaintiff, United States Fidelity & Guaranty Company, by its attorneys, O'Connor, DeGrazia, Tamm & O'Connor, P.C., for its Brief in Support, relies upon its Motion and the authorities cited therein.

Respectfully submitted,

O'CONNOR, DeGRAZIA, TAMM & O'CONNOR, P.C.

/s/ James E. Tamm P38154

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Dated: January 10, 2008

CERTIFICATE OF SERVICE

I hereby certify that on January 10, 2008, I electronically filed the foregoing paper(s) with the Clerk of the Court using the ECF system which will send notification of such filing to counsel for Defendant and I hereby certify that I have mailed by United States Postal Service the Paper(s) to the following non-ECF participants: None

/s/Rebecca Richardson (rmrichardson@odtlegal.com)

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